

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HANS C. EHNERT,) 2:18cv979
Plaintiff,) Electronic Filing
v.) Judge David Stewart Cercone
STEAMFITTERS LOCAL 449,) Magistrate Judge Patricia L. Dodge
Defendant.)

MEMORANDUM ORDER

March 10, 2020

Plaintiff, Hans C. Ehnert, initiated this *pro se* action on July 25, 2018 with the filing of a motion for leave to proceed in forma pauperis (ECF No. 1), which was dismissed without prejudice on August 7, 2018. (ECF No. 2). Plaintiff thereafter paid the filing fee, and the complaint was subsequently filed on August 22, 2018. (ECF No. 5). The case was referred to a magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules of Court for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on February 4, 2020 (ECF No. 39) recommending that Defendant's Second Motion to Dismiss (ECF No. 31) be granted in part and denied in part. Objections to the Report and Recommendations by registered ECF users were due on February 18, 2020, and objections by unregistered ECF users were due on February 21, 2020. No objections have been filed.

After a comprehensive *de novo* review, the Court will adopt the Report and Recommendation as the Opinion of the Court. Accordingly,

IT IS HEREBY ORDERED that the Defendant's Motion to Dismiss (ECF No. 31) is granted in part and denied in part as follows:

(1) The motion is denied regarding the ADA claim in Count 1, the retaliation claim in Count 3, and the ADEA claim in Count 5, but only with respect to the claim that Plaintiff was expelled from the Union for discriminatory reasons. All other claims in Counts 1, 3 and 5 are dismissed with prejudice;

(2) The motion is denied with respect to Plaintiff's "regarded as" claim in Count 2, but only with respect to the claim that Plaintiff was expelled from the Union for discriminatory reasons. All other claims in Count 2 are dismissed with prejudice; and

(3) The motion is granted with respect to Plaintiff's spoliation claim and Count 4 is dismissed with prejudice.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 39) dated February 4, 2020, is ADOPTED as the Opinion of the Court.

David Stewart Cercone
Senior United States District Judge

cc: Hans C. Ehnert
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(*Via First Class Mail*)

Joseph J. Pass, Esquire
Steven E. Winslow, Esquire
(*Via CM/ECF Electronic Mail*)